

I. Bill Summary

Purpose

The purpose of CARA is to reform the current state acquisition process. CARA will streamline and shorten the time it takes to complete an acquisition, and enable state agencies to obtain the best quality and value for each tax dollar spent. Specifically, CARA mandates that all major Information Technology acquisitions be based on Best Value as opposed to cheapest bid. CARA promotes a more competitive and cooperative partnership between the private sector and the State, while ensuring ethical business practices and public trust. CARA does not contain any provisions which would broaden or expand the State's use of private sector service contractors in lieu of California State Government employees, or in any way modify the State's existing legal standards for use of personal services contractors which are contained in Section 19130 of the Government Code. Also, CARA does not affect any laws or programs pertaining to participation of minority, women, or disabled veteran businesses.

Overview

The centerpiece of the State's ongoing procurement reform effort is the California Acquisition Reform Act of 1997. CARA will enable a comprehensive transformation of the methods state agencies use to acquire goods and services from non-governmental sources.

The State's current procurement laws are intentionally designed largely to anticipate and prevent any hint of abuse or corruption, and are based primarily on out-dated cost-driven supplier selection methods. State officials find themselves caught up in process rituals in which they focus on whether each bidder has fully and precisely complied with each step of the process, instead of making sensible decisions using common sense and sound business judgment based on best value to the State. How the acquisition is conducted has become more important than the result.

Today's rapid pace of change demands new types of laws which are capable of adapting to these changes. State officials need to be able to concentrate on best value and end results, not just process. Similarly, suppliers need to be able to concentrate on delivery of business solutions, and product and service quality improvement, not just unnecessary paperwork and compliance with minimally acceptable specifications.

CARA is crafted as a totally new statutory framework which is results oriented. It eliminates artificially compartmentalized technology, goods, and service procurement authorities that currently exist within the Public Contract Code. The current compartmentalized and fragmented statutory maze, with ambiguous and conflicting provisions scattered throughout the Public Contract Code, Government Code, and a dozen other Codes from Civil Code to Welfare and Institutions, is overhauled, rationalized, and consolidated to the fullest extent possible.

Extensive research was conducted in order to develop the best possible, state-of-the-art structure and provisions for CARA. The result is a statutory framework which is streamlined and simplified, and which enables efficient and timely conduct of acquisitions which consistently emphasize results rather than process, best value rather than just lowest cost, and quality factors such as experience, performance, and service. Additionally, self-executing rules which prevent state officials from using common business sense are replaced with clearly defined authority and accountability, and flexibility to use common sense and exercise good judgment in connection with day-to-day buying decisions.

I. Bill Summary (Continued)

■ History and Existing Law

Prior to the 1960s, the Department of Finance was responsible for the State's procurement practices. This authority was transferred to the Department of General Services when it was created in 1963. In 1982, the Public Contract Code was established (A.B. 3401, Harris, Ch. 465) containing provisions relating to the acquisition process. It was further expanded to include provisions relating to contracts for services and consulting (S.B. 129, Boatwright, Ch. 1231). Over the years the Code has been revised and expanded to the point it has become a piecemeal, ineffective document in need of extensive overhaul and reform.

A.B. 1727 (Polanco, 1993, Ch. 1106) and S.B. 910 (Polanco, 1995, Ch. 932) made declarations that called for procurement reform. A report

published by the Little Hoover Commission in 1993 entitled, *California's \$4 Billion Bottom Line: Getting Best Value Out of the Procurement Process* stated, "The Governor and the Legislature should enact comprehensive legislation to reorganize, simplify and streamline statutes relating to procurement." The Auditor General, the Legislative Analyst and various other legislative and task force reports also have called for similar reforms.

In February of 1994, Executive Order W-73-94 directed that the Department of General Services undertake the drafting of a comprehensive proposal to reform California's procurement process. CARA is the result of that directive.

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II. Summary of Key Provisions

Topic		Code	Section
A. Structural Reform			
1.	California Acquisition Reform Act of 1997	PCC	25000
2.	Decentralizes goods and technology procurement authority effective January 1, 2000	PCC	25110
3.	Retains existing statutory and administratively establish exemptions	PCC	25072
4.	Strengthens Department of General Services oversight authority	PCC	25353, 25401
5.	Enhances standards of conduct applicable to state agency employees and suppliers	PCC	25405-25444
6.	Reforms the award protest process	PCC	25310-25319
B. Making the State a Better Business Partner			
1.	Enables state agency consideration of supplier quality factors	PCC	25265
2.	Enhances the California Multiple Award Schedule Program	PCC	25200
3.	Expands support services and technical assistance	PCC	25460
4.	Enacts new “California Prompt Payment Act”	GC	926.15
5.	Permits payment of task withholds prior to final contract completion	PCC	25371
6.	Provides protection from public disclosure for trade secrets, corporate intellectual and proprietary property, and financial records	PCC	25300-25301
7.	Establishes an Interagency Council on State Contracting and Business Partnerships	PCC	25180

II. Summary of Key Provisions (Continued)

	Topic	Code	Section
C.	Increasing Small Business Participation		
1.	Updates the definition of a small business	GC	14837
2.	Reaffirms establishment of goals for small business participation	GC	14837
3.	Broadens application of the 5 percent Small Business Preference	GC	14837
4.	Establishes a new Small Business Subcontractor Preference	GC	14837
5.	Accelerates invoice payments	GC	926.15
6.	Requires designation of small business advocates at all state agencies	PCC	25186
7.	Requires DGS to assist State agencies in identifying process improvements to increase small business participation	PCC	25400
8.	Establishes an employee recognition and rewards program for outstanding performance	PCC	25188
D.	A New Architecture for Information Technology Acquisitions		
1.	Reaffirms DOIT IT policy authority, and requires DOIT approval of procedures established by DGS pertaining to IT acquisitions	GC PCC	11712/14626 25093, 25336
2.	Restates DOIT's authority to suspend, reinstate or terminate IT projects	PCC	25336
3.	Transfers authority for the acquisition of IT from DGS to State agencies beginning 1/1/2000	PCC	25100
4.	Requires that procedures and guidelines for review of acquisition plans for major IT acquisitions be established by DGS in cooperation with the Departments of Information Technology and Finance	PCC	25135
5.	Requires upfront planning and risk assessment for major acquisitions	PCC	25130
6.	Permits competitive negotiations and performance-based bidding in specified circumstances that are generally applicable to major IT acquisitions	PCC	25230, 25235
7.	Requires all major IT contracts be awarded based on the bid which provides the most value-effective solution to the State's business needs	PCC	25290

II. Summary of Key Provisions (Continued)

Topic	Code	Section
E. Best Value for the State's Taxpayers		
1. Requires the Prison Industry Authority to bid for State business	PC	2807
2. Provides competency training for state employees	PCC	25467
3. Establishes a statewide performance improvement program, and requires continuous reengineering of acquisition processes	PCC	25385
4. Promotes coordinated planning and buying of commonly needed goods and services	PCC	25143
5. Enables contract award on basis of Best Value to the State	PCC	25265, 25290
6. Permits evaluation of supplier performance	PCC	25280

III. Benefits of Legislative Reform

State Agencies	Business Community	Taxpayers
<ul style="list-style-type: none"> ✓ Flexibility to use common sense ✓ Higher small purchase threshold (\$2,500 versus \$100) ✓ More Multiple Award Schedules ✓ Permissive versus mandatory utilization of Prison Industry Authority goods ✓ Greater autonomy to conduct acquisitions without direct DGS involvement ✓ Competitive negotiation and performance-based source selection methods ✓ Best Value awards ✓ Faster delivery of higher quality goods and services ✓ Improved management information 	<ul style="list-style-type: none"> ✓ Increased small business participation ✓ Reduced paperwork and overhead costs ✓ Faster award decisions ✓ Expeditious resolution of award protests ✓ Flexible and responsive contract terms and conditions ✓ Prompt payment of invoices ✓ Long-term partnership relationships ✓ Enhanced support services and technical assistance ✓ Protection of trade secrets, corporate intellectual and proprietary property, and financial records 	<ul style="list-style-type: none"> ✓ Best value for public tax dollars ✓ Improved delivery of services ✓ Reduced cost of government operations ✓ Clearly defined authority and accountability ✓ Enhanced planning, management, reporting, and oversight, especially for major acquisitions ✓ Reengineered acquisition processes ✓ Continuous performance improvement

IV. How You Can Help

Communicate your position by writing the Bill's Author or any Senate G.O. Committee member.

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